

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**VAN COVER WAGLEY,**

**Plaintiff,**

**v.**

**BRADSHAW STATE JAIL, ET AL.,**

**Defendants.**

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**Case No. 6:20-CV-128-JDK-JDL**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Van Cover Wagley, an inmate proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On May 4, 2020, the Magistrate Judge issued a Report and Recommendation (Docket No. 8), recommending that the case be dismissed for Plaintiff's failure to comply with an order of the Court. *Id.* at 2.<sup>1</sup> A return receipt indicating delivery to Plaintiff was received by the Clerk on June 3, 2020. Docket No. 11.

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file

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<sup>1</sup> After the Report and Recommendation was filed, Plaintiff filed an Amended Complaint and a Motion for Leave to Proceed *in Forma Pauperis*. Docket Nos. 9–10. However, Plaintiff's motion for leave to proceed *in forma pauperis* is still deficient because he did not submit the certified *in forma pauperis* data sheet, as ordered. See Docket Nos. 3, 10.


objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 8) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 8) be **ADOPTED**. It is further

**ORDERED** that the above-styled civil rights action is **DISMISSED WITHOUT PREJUDICE** for Plaintiff's failure to comply with an order of the Court.

So **ORDERED** and **SIGNED** this **28th** day of **July, 2020**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE